

AMENDED IN SENATE MAY 12, 2003

AMENDED IN SENATE APRIL 30, 2003

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 21, 2003

**SENATE BILL**

**No. 602**

---

---

**Introduced by Senator Figueroa**  
**(Coauthors: Senators Kuehl and Romero)**  
(Coauthors: Assembly Members Levine, Pavley, and Reyes)

February 20, 2003

---

---

An act to amend Sections 1785.11.1, 1785.11.2, and 1785.14 of, to add Section 1799.1b to, to add Title 1.81.2 (commencing with Section 1798.90.1) to Part 4 of Division 3 to, the Civil Code, to amend Sections 530.5, 530.6, ~~530.8, and 1191.10~~ and 530.8 of the Penal Code, and to amend Section 2891 of the Public Utilities Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 602, as amended, Figueroa. Personal information.

(1) The Consumer Credit Reporting Agencies Act permits a consumer to place a security alert in his or credit report by making a request in writing or by telephone to a consumer credit reporting agency.

This bill would provide for a penalty in an amount up to \$2,500 and reasonable attorneys' fees for a failure of a consumer credit reporting agency to place this security alert, as specified. The bill would also require a consumer credit reporting agency to provide additional notice

to the consumer regarding the expiration date of that security alert, as specified.

(2) Existing law permits a consumer credit reporting agency to charge a reasonable fee to any consumer who elects to, among other things, freeze his or her credit report, with a specified exception.

This bill would limit this charge to no more than a one-time fee of \$10.

(3) Existing law requires consumer credit reporting agencies to maintain reasonable procedures designed to avoid violations of specified provisions, including, but not limited to, procedures that require prospective users of consumer information to identify themselves and the purposes for which that information is sought.

This bill would additionally require every consumer credit reporting agency to make a specified report to the Attorney General by June 30, 2004, to, among others, describe how the agency is complying with those provisions.

(4) Existing law permits a business to use information data encoded on a driver's license for verification purposes only.

This bill would prohibit the retention or further use of this information, except as otherwise authorized by law. The bill would make a violation of these provisions a crime, thereby imposing a state-mandated local program.

(5) Existing law prohibits business entities, as defined, from making specified disclosures in relation to individual records.

This bill would require a business entity that provides credit, installment, or telephone accounts, as defined, that receives a change of address request from any individual who has an existing account with that entity, to send specified change of address notices.

(6) Existing law provides that every person who willfully obtains personal identifying information about another person, as defined, and uses that information for any unlawful purpose is guilty of a crime punishable by imprisonment in a county jail not to exceed one year, or a fine not to exceed \$1,000, or both, or by imprisonment in the state prison, or a fine not to exceed \$10,000, or both.

This bill would enhance the terms of imprisonment for those persons, if specified circumstances exist. ~~The bill would, in addition, provide that any person convicted of a violation of, or of a conspiracy to violate, those provision would receive, in addition to any other punishment authorized by law, a consecutive 3-year term of imprisonment in the state prison for each prior felony conviction of, or for each prior felony~~

~~conviction of conspiracy to violate, those provisions, whether or not the prior conviction resulted in a term of imprisonment.~~

By expanding the scope of an existing crime, this bill imposes a state-mandated local program.

(7) Existing law provides a procedure to initiate an investigation of potential identity theft.

This bill would make a clarification within this provision.

(8) Existing law permits a person who discovers that he or she may be a victim of identity theft to request specified reports.

This bill would permit a cause of action for a failure of a person or entity to provide these reports, and would provide for penalties and reasonable attorneys' fees, among others.

~~(9) Existing law requires the court to permit and consider the statements of victims during the sentencing phase of specified proceedings.~~

~~This bill would require the court to permit and consider the statements of identity theft victims when sentencing the person who committed the identity theft, as applicable.~~

~~(10) Existing law prohibits telephone companies from making available specified information, without consent.~~

This bill would exempt therefrom certain information needed to pursue an identity theft investigation.

~~(11)~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as the  
2 Identity Theft Prevention and Assistance Act.

3 SEC. 2. Section 1785.11.1 of the Civil Code is amended to  
4 read:

5 1785.11.1. (a) A consumer may elect to place a security alert  
6 in his or her credit report by making a request in writing or by

1 telephone to a consumer credit reporting agency. “Security alert”  
2 means a notice placed in a consumer’s credit report, at the request  
3 of the consumer, that notifies a recipient of the credit report that  
4 the consumer’s identity may have been used without the  
5 consumer’s consent to fraudulently obtain goods or services in the  
6 consumer’s name.

7 (b) A consumer credit reporting agency shall notify each  
8 person requesting consumer credit information with respect to a  
9 consumer of the existence of a security alert in the credit report of  
10 that consumer and the date of expiration of that security alert,  
11 regardless of whether a full credit report, credit score, or summary  
12 report is requested. If that request was made by telephone, notice  
13 of the date of expiration of the security alert shall be made during  
14 that telephone communication. If that request was made by mail,  
15 notice of the date of expiration of the security alert shall be made  
16 by a written disclosure sent within 10 business days of the request  
17 and printed in a clear and conspicuous manner.

18 (c) Each consumer credit reporting agency shall maintain a  
19 toll-free telephone number to accept security alert requests from  
20 consumers 24 hours a day, seven days a week.

21 (d) The toll-free telephone number shall be included in any  
22 written disclosure by a consumer credit reporting agency to any  
23 consumer pursuant to Section 1785.15 and shall be printed in a  
24 clear and conspicuous manner.

25 (e) A consumer credit reporting agency shall place a security  
26 alert on a consumer’s credit report no later than five business days  
27 after receiving a request from the consumer.

28 (f) The security alert shall remain in place for at least 90 days,  
29 and a consumer shall have the right to request a renewal of the  
30 security alert.

31 (g) Notwithstanding Section 1785.19, any consumer credit  
32 reporting agency that recklessly, willfully, or intentionally fails to  
33 place a security alert pursuant to this section shall be liable for a  
34 penalty in an amount of up to two thousand five hundred dollars  
35 (\$2,500) and reasonable attorneys’ fees.

36 SEC. 3. Section 1785.11.2 of the Civil Code is amended to  
37 read:

38 1785.11.2. (a) A consumer may elect to place a security  
39 freeze on his or her credit report by making a request in writing by  
40 certified mail to a consumer credit reporting agency. “Security



freeze” means a notice placed in a consumer’s credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer credit reporting agency from releasing the consumer’s credit report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer’s credit report may not be released to a third party without prior express authorization from the consumer. This subdivision does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer’s credit report.

(b) A consumer credit reporting agency shall place a security freeze on a consumer’s credit report no later than five business days after receiving a written request from the consumer.

(c) The consumer credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit for a specific party or period of time.

(d) If the consumer wishes to allow his or her credit report to be accessed for a specific party or period of time while a freeze is in place, he or she shall contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) Proper identification, as defined in subdivision (c) of Section 1785.15.

(2) The unique personal identification number or password provided by the credit reporting agency pursuant to subdivision (c).

(3) The proper information regarding the third party who is to receive the credit report or the time period for which the report shall be available to users of the credit report.

(e) A consumer credit reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report pursuant to subdivision (d), shall comply with the request no later than three business days after receiving the request.

(f) A consumer credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a



1 consumer to temporarily lift a freeze on a credit report pursuant to  
2 subdivision (d) in an expedited manner.

3 (g) A consumer credit reporting agency shall remove or  
4 temporarily lift a freeze placed on a consumer's credit report only  
5 in the following cases:

6 (1) Upon consumer request, pursuant to subdivision (d) or (j).

7 (2) If the consumer's credit report was frozen due to a material  
8 misrepresentation of fact by the consumer. If a consumer credit  
9 reporting agency intends to remove a freeze upon a consumer's  
10 credit report pursuant to this paragraph, the consumer credit  
11 reporting agency shall notify the consumer in writing prior to  
12 removing the freeze on the consumer's credit report.

13 (h) If a third party requests access to a consumer credit report  
14 on which a security freeze is in effect, and this request is in  
15 connection with an application for credit or any other use, and the  
16 consumer does not allow his or her credit report to be accessed for  
17 that specific party or period of time, the third party may treat the  
18 application as incomplete.

19 (i) If a consumer requests a security freeze, the consumer credit  
20 reporting agency shall disclose the process of placing and  
21 temporarily lifting a freeze, and the process for allowing access to  
22 information from the consumer's credit report for a specific party  
23 or period of time while the freeze is in place.

24 (j) A security freeze shall remain in place until the consumer  
25 requests that the security freeze be removed. A consumer credit  
26 reporting agency shall remove a security freeze within three  
27 business days of receiving a request for removal from the  
28 consumer, who provides both of the following:

29 (1) Proper identification, as defined in subdivision (c) of  
30 Section 1785.15.

31 (2) The unique personal identification number or password  
32 provided by the credit reporting agency pursuant to subdivision  
33 (c).

34 (k) A consumer credit reporting agency shall require proper  
35 identification, as defined in subdivision (c) of Section 1785.15, of  
36 the person making a request to place or remove a security freeze.

37 (l) The provisions of this section do not apply to the use of a  
38 consumer credit report by any of the following:

39 (1) A person or entity, or a subsidiary, affiliate, or agent of that  
40 person or entity, or an assignee of a financial obligation owing by

1 the consumer to that person or entity, or a prospective assignee of  
2 a financial obligation owing by the consumer to that person or  
3 entity in conjunction with the proposed purchase of the financial  
4 obligation, with which the consumer has or had prior to  
5 assignment an account or contract, including a demand deposit  
6 account, or to whom the consumer issued a negotiable instrument,  
7 for the purposes of reviewing the account or collecting the  
8 financial obligation owing for the account, contract, or negotiable  
9 instrument. For purposes of this paragraph, “reviewing the  
10 account” includes activities related to account maintenance,  
11 monitoring, credit line increases, and account upgrades and  
12 enhancements.

13 (2) A subsidiary, affiliate, agent, assignee, or prospective  
14 assignee of a person to whom access has been granted under  
15 subdivision (d) of Section 1785.11.2 for purposes of facilitating  
16 the extension of credit or other permissible use.

17 (3) Any state or local agency, law enforcement agency, trial  
18 court, or private collection agency acting pursuant to a court order,  
19 warrant, or subpoena.

20 (4) A child support agency acting pursuant to Chapter 2 of  
21 Division 17 of the Family Code or Title IV-D of the Social Security  
22 Act (42 U.S.C. et seq.).

23 (5) The State Department of Health Services or its agents or  
24 assigns acting to investigate Medi-Cal fraud.

25 (6) The Franchise Tax Board or its agents or assigns acting to  
26 investigate or collect delinquent taxes or unpaid court orders or to  
27 fulfill any of its other statutory responsibilities.

28 (7) The use of credit information for the purposes of  
29 prescreening as provided for by the federal Fair Credit Reporting  
30 Act.

31 (8) Any person or entity administering a credit file monitoring  
32 subscription service to which the consumer has subscribed.

33 (9) Any person or entity for the purpose of providing a  
34 consumer with a copy of his or her credit report upon the  
35 consumer’s request.

36 (m) This act does not prevent a consumer credit reporting  
37 agency from charging no more than a one-time fee of ten dollars  
38 (\$10) to a consumer who elects to freeze, remove the freeze, or  
39 temporarily lift the freeze regarding access to a consumer credit  
40 report, except that a consumer credit reporting agency may not





1 charge a fee to a victim of identity theft who has submitted a valid  
2 police report or valid Department of Motor Vehicles investigative  
3 report that alleges a violation of Section 530.5 of the Penal Code.

4 SEC. 4. Section 1785.14 of the Civil Code is amended to read:

5 1785.14. (a) Every consumer credit reporting agency shall  
6 maintain reasonable procedures designed to avoid violations of  
7 Section 1785.13 and to limit furnishing of consumer credit reports  
8 to the purposes listed under Section 1785.11. These procedures  
9 shall require that prospective users of the information identify  
10 themselves, certify the purposes for which the information is  
11 sought, and certify that the information will be used for no other  
12 purposes. From the effective date of this act, the consumer credit  
13 reporting agency shall keep a record of the purposes as stated by  
14 the user. Every consumer credit reporting agency shall make a  
15 reasonable effort to verify the identity of a new prospective user  
16 and the uses certified by the prospective user prior to furnishing the  
17 user a consumer report. No consumer credit reporting agency may  
18 furnish a consumer credit report to any person unless the consumer  
19 credit reporting agency has reasonable grounds for believing that  
20 the consumer credit report will be used by the person for the  
21 purposes listed in Section 1785.11. A consumer credit reporting  
22 agency does not have reasonable grounds for believing that a  
23 consumer credit report will be used by the person for the purposes  
24 listed in Section 1785.11, unless all of the following requirements  
25 are met:

26 (1) If the prospective user is a retail seller, as defined in Section  
27 1802.3, and intends to issue credit to a consumer who appears in  
28 person on the basis of an application for credit submitted in person,  
29 the consumer credit reporting agency shall, with a reasonable  
30 degree of certainty, match at least three categories of identifying  
31 information within the file maintained by the consumer credit  
32 reporting agency on the consumer with the information provided  
33 to the consumer credit reporting agency by the retail seller. The  
34 categories of identifying information may include, but are not  
35 limited to, first and last name, month and date of birth, driver's  
36 license number, place of employment, current residence address,  
37 previous residence address, or social security number. The  
38 categories of information may not include mother's maiden name.

39 (2) If the prospective user is a retail seller, as defined in Section  
40 1802.3, and intends to issue credit to a consumer who appears in



1 person on the basis of an application for credit submitted in person,  
2 the retail seller certifies, in writing, to the consumer credit  
3 reporting agency that it instructs its employees and agents to  
4 inspect a photo identification of the consumer at the time the  
5 application was submitted in person. This paragraph does not  
6 apply to an application for credit submitted by mail.

7 (3) If the prospective user intends to extend credit by mail  
8 pursuant to a solicitation by mail, the extension of credit shall be  
9 mailed to the same address as on the solicitation unless the  
10 prospective user verifies any address change by, among other  
11 methods, contacting the person to whom the extension of credit  
12 will be mailed.

13 (4) On or before June 30, 2004, every consumer credit  
14 reporting agency shall submit a report to the Attorney General  
15 describing how the agency is complying with this subdivision.  
16 This report shall detail, among other things, the procedures,  
17 technology, and mechanisms the agency uses to match the  
18 identifying information described in this subdivision. In addition,  
19 the report shall include the number of requests that have been  
20 granted and denied based on this matching requirement and the  
21 criteria used by the agency to grant or deny these requests.

22 (b) Whenever a consumer credit reporting agency prepares a  
23 consumer credit report, it shall follow reasonable procedures to  
24 assure maximum possible accuracy of the information concerning  
25 the individual about whom the report relates. These reasonable  
26 procedures shall include, but not be limited to, permanent  
27 retention by the consumer credit reporting agency in the  
28 consumer's file, or a separately individualized file, of that portion  
29 of the data in the file that is used by the consumer credit reporting  
30 agency to identify the individual consumer pursuant to paragraph  
31 (1) of subdivision (a). This permanently retained data shall be  
32 available for use in either a reinvestigation pursuant to subdivision  
33 (a) of Section 1785.16, an investigation where the consumer has  
34 filed a police report pursuant to subdivision (k) of Section  
35 1785.16, or a restoration of a file involving the consumer. If the  
36 permanently retained identifying information is retained in a  
37 consumer's file, it shall be clearly identified in the file in order for  
38 an individual who reviews the file to easily distinguish between the  
39 permanently stored identifying information and any other  
40 identifying information that may be a part of the file. This



1 retention requirement does not apply to data that is reported in  
2 error, that is obsolete, or that is found to be inaccurate through the  
3 results of a reinvestigation initiated by a consumer pursuant to  
4 subdivision (a) of Section 1785.16.

5 (c) No consumer credit reporting agency may prohibit any user  
6 of any consumer credit report furnished by the consumer credit  
7 reporting agency from disclosing the contents of the consumer  
8 credit report to the consumer who is the subject of the report if  
9 adverse action may be taken by the user based in whole or in part  
10 on the consumer credit report. The act of disclosure to the  
11 consumer by the user of the contents of a consumer credit report  
12 may not be a basis for liability of the consumer credit reporting  
13 agency or the user under Section 1785.31.

14 (d) A consumer credit reporting agency shall provide a written  
15 notice to any person who regularly and in the ordinary course of  
16 business supplies information to the consumer credit reporting  
17 agency concerning any consumer or to whom a consumer credit  
18 report is provided by the consumer credit reporting agency. The  
19 notice shall specify the person's obligations under this title. Copies  
20 of the appropriate code sections shall satisfy the requirement of  
21 this subdivision.

22 SEC. 5. Title 1.81.2 (commencing with Section 1798.90.1) is  
23 added to Part 4 of Division 3 of the Civil Code, to read:

24  
25 TITLE 1.81.2. CONFIDENTIALITY OF DRIVER'S  
26 LICENSE INFORMATION  
27

28 1798.90.1. (a) Any business may swipe a driver's license in  
29 any electronic device for purposes of verification of age and  
30 authentication of the driver's license, but may not retain or further  
31 use that information for any other purpose, except where otherwise  
32 authorized by law and only to the extent authorized by law.

33 (b) As used in this section, "business" means a proprietorship,  
34 partnership, corporation, or any other form of commercial  
35 enterprise.

36 (c) A violation of this section constitutes a misdemeanor  
37 punishable by imprisonment in a county jail for no more than one  
38 year, or by a fine of no more than ten thousand dollars (\$10,000),  
39 or by both.

40 SEC. 6. Section 1799.1b is added to the Civil Code, to read:

1 1799.1b. (a) Any business entity that provides credit,  
2 installment, or telephone accounts that receives a change of  
3 address request from any individual that has an existing credit,  
4 installment, or telephone account with that entity shall send within  
5 30 days of receipt of that request a change of address notification  
6 to the previous address of record and to the new address.

7 (b) The following definitions shall apply to this section:

8 (1) "Credit account" has the same meaning as "credit card,"  
9 as defined in subdivision (a) of Section 1747.02.

10 (2) "Installment account" has the same meaning as that  
11 provided in Section 1802.7.

12 (3) "Telephone account" means an account with a telephone  
13 corporation, as defined in Section 234 of the Public Utilities Code.

14 SEC. 7. Section 530.5 of the Penal Code is amended to read:

15 530.5. (a) Every person who willfully obtains personal  
16 identifying information, as defined in subdivision (c), of another  
17 person, and uses that information for any unlawful purpose,  
18 including to obtain, or attempt to obtain, credit, goods, services,  
19 or medical information in the name of the other person without the  
20 consent of that person, is guilty of a public offense, and upon  
21 conviction therefor, shall be punished either by imprisonment in  
22 a county jail not to exceed one year, a fine not to exceed one  
23 thousand dollars (\$1,000), or both that imprisonment and fine, or  
24 by imprisonment in the state prison, a fine not to exceed ten  
25 thousand dollars (\$10,000), or both that imprisonment and fine.

26 (b) "Electronic communication" means the transmission of  
27 personal identifying information as part of any e-commerce  
28 transaction, including, but not limited to, transactions over the  
29 Internet, electronic funds transfers, or Web site purchases.

30 (c) "Personal identifying information" means the name,  
31 address, telephone number, health insurance identification  
32 number, taxpayer identification number, school identification  
33 number, state or federal driver's license number, or identification  
34 number, social security number, place of employment, employee  
35 identification number, mother's maiden name, demand deposit  
36 account number, savings account number, checking account  
37 number, PIN (personal identification number) or password, alien  
38 registration number, government passport number, date of birth,  
39 unique biometric data including fingerprint, facial scan identifiers,  
40 voice print, retina or iris image, or other unique physical

1 representation, unique electronic data including identification  
2 number, address, or routing code, telecommunication identifying  
3 information or access device, information contained in a birth or  
4 death certificate, or credit card number of an individual person.

5 (d) “Taking or loss” means the amount of credit issued, surety  
6 granted, money taken, or goods received at the full value of the  
7 item as sold or purchased, irrespective of whether the defendant  
8 actually obtained the goods or was able to use the credit. The value  
9 of the taking or loss is complete on the issuance of the credit  
10 granting of the surety, or the provision or shipment of the order.

11 (e) “Victim” means the person whose personal identifying  
12 information was used in the crime, or the corporation, merchant  
13 business, or individual who issued the credit, goods, or services to  
14 the defendant who is using the personal identifying information of  
15 another.

16 (f) In any case in which a person willfully obtains personal  
17 identifying information of another person, uses that information  
18 to commit a crime in addition to a violation of subdivision (a), and  
19 is convicted of that crime, the court records shall reflect that the  
20 person whose identity was falsely used to commit the crime did not  
21 commit the crime.

22 (g) Every person who, with the intent to defraud, acquires,  
23 transfers, or retains possession of the personal identifying  
24 information, as defined in subdivision (c), of another person is  
25 guilty of a public offense, and upon conviction therefor, shall be  
26 punished by imprisonment in a county jail not to exceed one year,  
27 or a fine not to exceed one thousand dollars (\$1,000), or by both  
28 that imprisonment and fine.

29 (h) (1) If the taking or loss described in subdivision (a)  
30 exceeds fifty thousand dollars (\$50,000), the crime involves five  
31 or more victims, or the crime was committed via electronic  
32 communication, the court shall add an additional one year to the  
33 defendant’s sentence.

34 (2) If the taking or loss described in subdivision (a) exceeds one  
35 hundred fifty thousand dollars (\$150,000), or the crime involves  
36 10 or more victims, the court shall add an additional two years to  
37 the defendant’s sentence.

38 (i) Any term of punishment described in subdivision (h) may  
39 run consecutively with any additional term of punishment  
40 imposed by Section 186.11.



~~(j) Any person convicted of a violation of, or of a conspiracy to violate, this section, shall receive, in addition to any other punishment authorized by law, including Section 667.5, a full, separate, and consecutive three year term for each prior felony conviction of, or for each prior felony conviction of conspiracy to violate, this section, whether or not the prior conviction resulted in a term of imprisonment.~~

SEC. 8. Section 530.6 of the Penal Code is amended to read:

530.6. (a) A person who has learned or reasonably suspects that his or her personal identifying information has been unlawfully used by another, as described in subdivision (a) of Section 530.5, may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over his or her actual residence, which shall take a police report of the matter, provide the complainant with a copy of that report, and begin an investigation of the facts. If the suspected crime was committed in a different jurisdiction, the local law enforcement agency may refer the matter to the law enforcement agency where the suspected crime was committed for further investigation of the facts.

(b) A person who reasonably believes that he or she is the victim of identity theft may petition a court, or the court, on its own motion or upon application of the prosecuting attorney, may move, for an expedited judicial determination of his or her factual innocence, where the perpetrator of the identity theft was arrested for, cited for, or convicted of a crime under the victim's identity, or where a criminal complaint has been filed against the perpetrator in the victim's name, or where the victim's identity has been mistakenly associated with a record of criminal conviction. Any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or other material, relevant, and reliable information submitted by the parties or ordered to be part of the record by the court. Where the court determines that the petition or motion is meritorious and that there is no reasonable cause to believe that the victim committed the offense for which the perpetrator of the identity theft was arrested, cited, convicted, or subject to a criminal complaint in the victim's name, or that the victim's identity has been mistakenly associated with a record of criminal conviction, the court shall find the victim factually

1 innocent of that offense. If the victim is found factually innocent,  
2 the court shall issue an order certifying this determination.

3 (c) After a court has issued a determination of factual  
4 innocence pursuant to this section, the court may order the name  
5 and associated personal identifying information contained in court  
6 records, files, and indexes accessible by the public deleted, sealed,  
7 or labeled to show that the data is impersonated and does not reflect  
8 the defendant's identity.

9 (d) A court that has issued a determination of factual innocence  
10 pursuant to this section may at any time vacate that determination  
11 if the petition, or any information submitted in support of the  
12 petition, is found to contain any material misrepresentation or  
13 fraud.

14 (e) The Judicial Council of California shall develop a form for  
15 use in issuing an order pursuant to this section.

16 SEC. 9. Section 530.8 of the Penal Code is amended to read:

17 530.8. (a) If a person discovers that an application in his or  
18 her name for a loan, credit line or account, credit card, charge card,  
19 public utility service, or commercial mobile radio service has been  
20 filed with any person or entity by an unauthorized person, or that  
21 an account in his or her name has been opened with a bank, trust  
22 company, savings association, credit union, public utility, or  
23 commercial mobile radio service provider by an unauthorized  
24 person, then, upon presenting to the person or entity with which  
25 the application was filed or the account was opened a copy of a  
26 police report prepared pursuant to Section 530.6 and identifying  
27 information in the categories of information that the unauthorized  
28 person used to complete the application or to open the account, the  
29 person, or a law enforcement officer specified by the person, shall  
30 be entitled to receive information related to the application or  
31 account, including a copy of the unauthorized person's application  
32 or application information and a record of transactions or charges  
33 associated with the application or account. Upon request by the  
34 person in whose name the application was filed or in whose name  
35 the account was opened, the person or entity with which the  
36 application was filed shall inform him or her of the categories of  
37 identifying information that the unauthorized person used to  
38 complete the application or to open the account. The person or  
39 entity with which the application was filed or the account was  
40 opened shall provide copies of all forms and information required

1 by this section, without charge, within 10 business days of receipt  
2 of the person's request and submission of the required copy of the  
3 police report and identifying information.

4 (b) Any request made pursuant to subdivision (a) to a person or  
5 entity subject to the provisions of Section 2891 of the Public  
6 Utilities Code shall be in writing and the requesting person shall  
7 be deemed to be the subscriber for purposes of that section.

8 (c) (1) Before a person or entity provides copies to a law  
9 enforcement officer pursuant to subdivision (a), the person or  
10 entity may require the requesting person to submit a signed and  
11 dated statement by which the requesting person does all of the  
12 following:

13 (A) Authorizes disclosure for a stated period.

14 (B) Specifies the name of the agency or department to which  
15 the disclosure is authorized.

16 (C) Identifies the types of records that the requesting person  
17 authorizes to be disclosed.

18 (2) The person or entity shall include in the statement to be  
19 signed by the requesting person a notice that the requesting person  
20 has the right at any time to revoke the authorization.

21 (d) (1) A failure to produce records pursuant to subdivision (a)  
22 shall be addressed by the court in the jurisdiction that the victim  
23 resides in and where the request for information was issued from.  
24 Upon motion by the Attorney General, the district attorney, or the  
25 prosecuting city attorney, the court may compel the attendance of  
26 the person or entity in possession of the records, as described in  
27 subdivision (a), and order the production of the requested records  
28 to the court. Unless the parties to the proceeding agree otherwise,  
29 following a hearing, the court shall order the release of records as  
30 required pursuant to this section. The court shall hear and decide  
31 that motion no later than 10 court days after the motion is served  
32 and filed.

33 (2) In addition to any other civil remedy available, the victim  
34 may bring a civil action against the entity for damages, injunctive  
35 relief or other equitable relief, and a penalty of one hundred dollars  
36 (\$100) per day of noncompliance, plus reasonable attorneys' fees.

37 (e) As used in this section, "application" includes the addition  
38 of authorized users to an existing account or any other changes  
39 made to an existing account.



(f) As used in this section, “law enforcement officer” means a peace officer as defined by Section 830.1 of the Penal Code.

(g) As used in this section, “commercial mobile radio service” means “commercial mobile radio service” as defined in section 20.3 of Title 47 of the Code of Federal Regulations.

~~SEC. 10. Section 1191.10 of the Penal Code is amended to read:~~

~~1191.10. The definition of the term “victim” as used in Section 1191.1 includes any insurer or employer who was the victim of workers’ compensation fraud for the crimes specified in Section 549 of this code, Sections 2314 and 6152 of the Business and Professions Code, Sections 1871.4, 11760, and 11880 of the Insurance Code, and Section 3215 of the Labor Code, and any victim of identity theft pursuant to Section 530.5.~~

~~SEC. 11.~~

*SEC. 10.* Section 2891 of the Public Utilities Code is amended to read:

2891. (a) No telephone or telegraph corporation shall make available to any other person or corporation, without first obtaining the residential subscriber’s consent, in writing, any of the following information:

(1) The subscriber’s personal calling patterns, including any listing of the telephone or other access numbers called by the subscriber, but excluding the identification to the person called of the person calling and the telephone number from which the call was placed, subject to the restrictions in Section 2893, and also excluding billing information concerning the person calling which federal law or regulation requires a telephone corporation to provide to the person called.

(2) The residential subscriber’s credit or other personal financial information, except when the corporation is ordered by the commission to provide this information to any electrical, gas, heat, telephone, telegraph, or water corporation, or centralized credit check system, for the purpose of determining the creditworthiness of new utility subscribers.

(3) The services which the residential subscriber purchases from the corporation or from independent suppliers of information services who use the corporation’s telephone or telegraph line to provide service to the residential subscriber.

1 (4) Demographic information about individual residential  
2 subscribers, or aggregate information from which individual  
3 identities and characteristics have not been removed.

4 (b) Any residential subscriber who gives his or her written  
5 consent for the release of one or more of the categories of personal  
6 information specified in subdivision (a) shall be informed by the  
7 telephone or telegraph corporation regarding the identity of each  
8 person or corporation to whom the information has been released,  
9 upon written request. The corporation shall notify every  
10 residential subscriber of the provisions of this subdivision  
11 whenever consent is requested pursuant to this subdivision.

12 (c) Any residential subscriber who has, pursuant to subdivision  
13 (b), given written consent for the release of one or more of the  
14 categories of personal information specified in subdivision (a)  
15 may rescind this consent upon submission of a written notice to the  
16 telephone or telegraph corporation. The corporation shall cease to  
17 make available any personal information about the subscriber,  
18 within 30 days following receipt of notice given pursuant to this  
19 subdivision.

20 (d) This section does not apply to any of the following:

21 (1) Information provided by residential subscribers for  
22 inclusion in the corporation's directory of subscribers.

23 (2) Information customarily provided by the corporation  
24 through directory assistance services.

25 (3) Postal ZIP Code information.

26 (4) Information provided under supervision of the commission  
27 to a collection agency by the telephone corporation exclusively for  
28 the collection of unpaid debts.

29 (5) Information provided to an emergency service agency  
30 responding to a 911 telephone call or any other call communicating  
31 an imminent threat to life or property.

32 (6) Information provided to a law enforcement agency in  
33 response to lawful process.

34 (7) Information which is required by the commission pursuant  
35 to its jurisdiction and control over telephone and telegraph  
36 corporations.

37 (8) Information transmitted between telephone or telegraph  
38 corporations pursuant to the furnishing of telephone service  
39 between or within service areas.

(9) Information required to be provided by the corporation pursuant to rules and orders of the commission or the Federal Communications Commission regarding the provision over telephone lines by parties other than the telephone and telegraph corporations of telephone or information services.

(10) The name and address of the lifeline customers of a telephone corporation provided by that telephone corporation to a public utility for the sole purpose of low-income ratepayer assistance outreach efforts. The telephone corporation receiving the information request pursuant to this paragraph may charge the requesting utility for the cost of the search and release of the requested information. The commission, in its annual low-income ratepayer assistance report, shall assess whether this information has been helpful in the low-income ratepayer assistance outreach efforts.

(11) Information provided in response to a request pursuant to subdivision (a) of Section 530.8 of the Penal Code.

(e) Every violation is a grounds for a civil suit by the aggrieved residential subscriber against the telephone or telegraph corporation and its employees responsible for the violation.

(f) For purposes of this section, “access number” means a telex, teletex, facsimile, computer modem, or any other code which is used by a residential subscriber of a telephone or telegraph corporation to direct a communication to another subscriber of the same or another telephone or telegraph corporation.

~~SEC. 12.~~

*SEC. 11.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.